



THE ATTORNEY GENERAL OF TEXAS

PRICE DANIEL
ATTORNEY GENERAL

AUSTIN, TEXAS

December 9, 1949

Hon. Clyde Fillmore
District Attorney
Wichita Falls, Texas

Opinion No. V-959.

Re: Authority to pay a court
reporter from another dis-
trict traveling expenses
to Wichita County to per-
form duties of court re-
porter there.

Dear Mr. Fillmore:

Your request for an opinion is substantially
as follows:

Judge Floyd Jones of Breckenridge held
a term of court for Judge Frank Ikard of the
30th Judicial District in Wichita County,
Texas. The court reporter accompanied him
to Wichita County inasmuch as the court re-
porter for the 30th Judicial District was in
Vernon, Texas, to report the case of Texanna
Oil Co. v. Kathelene Kelly, et al, No. 9219,
by reason of the illness of the court report-
er in Vernon. Judge Jones was advised to
bring his court reporter with him by reason
of the absence of the regular court reporter
for the 30th Judicial District.

The question presented is whether Wichi-
ta County has the authority to pay the visit-
ing court reporter his actual and necessary
expenses in going to and returning from Wi-
chita County.

Article 2326a, V.C.S., provides, in part, as
follows:

"All official shorthand reporters and
deputy official shorthand reporters of the
District Courts of the State of Texas com-
posed of more than one county, when engaged
in the discharge of their official duties
in any county in this State other than the
county of their residence shall, in addition
to the compensation now provided by law for

their services, be allowed their actual and necessary expenses while actually engaged in the discharge of such duties, not to exceed the sum of Four Dollars per day for hotel bills, and not to exceed four cents a mile when traveling by railroad or bus lines, and not to exceed ten cents a mile when traveling by private conveyance in going to and returning from the place where such duties are discharged, traveling the nearest practical route. . .

"Where the official or deputy official shorthand reporter does not reside in the Judicial District for which he or she is appointed, he or she shall only be entitled to traveling expenses from the time he or she reaches the County Line of any county in the Judicial District. Provided, however, that whenever any official or deputy official shorthand reporter is called upon to report the proceedings of any special term of Court, or on account of the sickness of any official shorthand reporter of any Judicial District, necessitating the employment of a shorthand reporter from some other county within the State, then the shorthand reporter so employed shall receive and be paid all actual and necessary expenses in going to and returning from the place where he or she may be called on to report the proceedings of any Regular or Special terms of Court." (Emphasis added)

In determining the question presented, it becomes necessary to construe the last portion of Article 2326a relating to the sickness of any official shorthand reporter of any Judicial District. Your fact situation reflects that the regularly appointed court reporter of the 30th Judicial District was reporting a case in Vernon, Texas, where he was substituting on account of the illness of the court reporter in that district, thereby necessitating the employment of a shorthand reporter from some other county within the State to substitute for the court reporter of the 30th Judicial District. The construction placed upon this portion of the statute by this office is that the language is sufficient in scope to authorize the payment of all actual and necessary expenses to the court reporter accompanying Judge Jones in going to and returning from Wichita County.

SUMMARY

A court reporter who substitutes for a court reporter of another district who is absent by reason of the illness of a third court reporter in another judicial district would be entitled to his or her actual and necessary expenses in going to and returning from the place where he or she would be called upon to report such proceedings pursuant to Article 2326a, V.C.S.

Yours very truly,

ATTORNEY GENERAL OF TEXAS

By


Burnell Waldrep
Assistant

BW:bh

APPROVED


ATTORNEY GENERAL